

REMARKS/ARGUMENTS

The claims have been divided into groups as follows:

- Group I: Claims 25-27 and 37-39, drawn to a powder feeding apparatus and method of feeding powder wherein powder feeding chamber is subjected to shearing and frictional forces caused by relative movement.
- Group II: Claims 28-36 and 40-48, drawn to a powder feeding apparatus and method of feeding powder wherein powder within a feeding chamber is subject to air suction.

Applicants elect, with traverse, Group I, Claims 25-27 and 37-39, for examination.

Applicants respectfully traverse the Restriction Requirement on the grounds that no adequate reasons and/or examples have been provided to support a conclusion of patentable distinctness between the identified groups.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (MPEP §803). The burden is on the Examiner to provide reasons and/or examples to support any conclusion in regard to patentable distinction (MPEP §803). Moreover, when citing lack of unity of invention in a national stage application, the Examiner has the burden of explaining why each group lacks unity with each other group specifically describing special technical features in each group (MPEP § 1893.03(d)).

The Office has asserted that Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1, because under PCT Rule 13.2, they lack the same or corresponding special technical features. The Office has alleged that: “the special technical feature of group I (powder in a feeding chamber is subject to shearing and frictional forces caused by relative movement) is not required by the claims of group II.”

Applicants respectfully submit that the special technical feature of both Groups is the feeding chamber device which constitutes an independent, intermediate device separating a bulk powder source from a dose filling tool. this feeding device is moveable relative to the dose filling tool in a manner that forcibly contacts the outlet of the feeding chamber device with the surface of the dose filling tool during the relative movement.

Annex B of the Administrative Instructions under the PCT at (b) Technical Relationship states:

“The expression “special technical features” is defined in Rule 13.2 as meaning those technical features that defines a contribution which each of the inventions, considered as a whole, makes over the prior art. The determination is made on the contents of the claims as interpreted in light of the description and drawings (if any).”

Applicants respectfully submit that the Office has not provided any indication that the contents of the claims interpreted in light of the description was considered in making the assertion of a lack of unity and the Office has erroneously identified the special technical feature of the claimed invention.

Moreover, the Office has not demonstrated that a serious burden will be placed on the Examiner if Restriction is not required. The MPEP in §803 states:

“If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.”

Applicants submit that a search of all the claims would not impose a serious burden on the Office.

Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the requirement for restriction.

Applicants therefore request that the requirement for restriction be withdrawn.

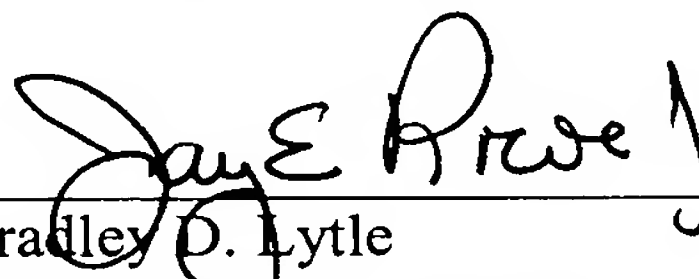
Application No. 10/588,214

Reply to Restriction Requirement of September 5, 2008

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice thereof is earnestly solicited.

Respectfully Submitted,

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